

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT
★ JUNE 14 2000 ★

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ACCESS VAN LINES,

Plaintiff,

-against-

UNDERWRITERS AT LLOYD'S LONDON,

Defendant.

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PM
TIME ARR. 04 CV 130 (ARR)

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OPINION AND ORDER

ROSS, United States District Judge:

By letter dated May 19, 2005, plaintiff requests a pre-motion conference to consider whether the court should consolidate a state court action, in which Access Van Lines is the defendant, with the above-captioned matter. Magistrate Judge Steven M. Gold denied plaintiff's request at a March 29, 2005 conference between the parties. Plaintiff's May 19, 2005 letter does not invoke statutory authority or any specific provision of the Federal Rules of Civil Procedure. The court notes that the two cases could only be consolidated if Access Van Lines, as the defendant in the state court matter, could properly remove the case to federal court. The state court action was filed on July 7, 2004. Plaintiff's Ex. A. Assuming arguendo that there is diversity between the parties and the requisite amount in controversy so that a federal district court would have diversity jurisdiction, Access Van Lines is now precluded from seeking removal as it did not do so in a timely manner. 28 U.S.C. § 1446(b). As a result, the court lacks jurisdiction over the state court matter.

SO ORDERED.


Allyne R. Ross
United States District Judge

Dated: June 10, 2005
Brooklyn, New York

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